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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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LEONARD P. SULLIVAN,

Petitioner,

v.

ISIDRO BACA, et al.,

Respondents.

Case No. 2:19-cv-01814-GMN-EJY

ORDER

On January 9, 2020, this court dismissed petitioner Leonard P. Sullivan’s 28 U.S.C. § 2254 habeas corpus petition for failure to comply with this court’s order to pay the filing fee (ECF No. 5). Judgment was entered (ECF No. 7). However, Sullivan *had* in fact paid the filing fee, which was not reflected on the docket due to a clerical error (see ECF No. 11; ECF No. 8, p. 5). Accordingly, this court’s order dismissing the action is vacated.

Next, the court has reviewed what Sullivan styled as a habeas petition pursuant to Habeas Rule 4, and it suffers from at least two defects. First, it is not on the court-required form. LSR 3-1. Second, 28 U.S.C. § 2254(a) provides that a federal court: “shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” Sullivan asks this court for “authorization to file a second appeal contesting [his] sentence” in state court. This court lacks jurisdiction to direct the state court to permit such an

1 appeal. Therefore, this action is dismissed for failure to state a claim for which habeas
2 relief may be granted.

3 **IT IS THEREFORE ORDERED** petitioner's motion for reconsideration (ECF No.
4 8) is **GRANTED**.

5 **IT IS FURTHER ORDERED** that this court's order dated January 9, 2020 (ECF
6 No. 5) is **VACATED**.

7 **IT IS FURTHER ORDERED** that this petition is **DISMISSED** for failure to state a
8 claim for which relief may be granted.

9 **IT IS FURTHER ORDERED** that a certificate of appealability is denied.

10 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel
11 (ECF No. 10) is **DENIED** as moot.

12 **IT IS FURTHER ORDERED** that the Clerk shall enter judgment accordingly and
13 close this case.

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16 DATED: 20 February 2020.

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19 _____
20 GLORIA M. NAVARRO
21 UNITED STATES DISTRICT JUDGE
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